S.B. CIVIL WRIT PETITION NO.1382/2005

Ghever Ram

VS

State of Rajasthan & Ors.

DATE OF ORDER 14.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. U.S.Gehlot, for the petitioner.

<><><>

Heard learned counsel for the petitioner.

According to petitioner the notification for acquisition of land in question was issued by the Government on 4.1.2003 under Section 4 of the Land Acquisition Act. Thereafter, the proceedings under Section 17 (1) of the Land Acquisition Act was taken and, thereafter, the compensation was determined and the petitioner was offered compensation for the land amounting to Rs.13760/- in the month of Feb., 2003 by sending a cheque to the petitioner alongwith notice dated 12th Sept., 2003. According to learned counsel for the petitioner, the petitioner tried to present the cheque in the bank, but before that, time for encashing the amount by the said cheque expired, therefore, petitioner returned the cheque to the concerned authorities.

The petitioner, thereafter, submitted certain representations to the District Collector and the Land Acquisition Officer including the representation to the Chief Minister by registered post. The petitioner now by this writ petition is seeking quashing of the acquisition proceedings and also award of compensation of Rs. 5 lacs against the demolitions of petitioner's two houses, hut trees and petitioner also demanded compensation for the land amount @ Rs.1.47 lac alongwith interest @ 18% per annum.

According to learned counsel for the petitioner the Hon'ble Supreme Court in the case delivered in State of UP & Ors Vs. Manohar reported in 2004 AIR SCW 7176 in a question of non-payment of compensation of land acquisition matter by the concerned authorities and depriving a person from his property, has awarded even exemplary cost of Rs.25,000/- against the authorities. According to learned counsel for the petitioner in view of the above, the appropriate direction for making payment to the petitioner can be passed by this court also in writ jurisdiction.

I considered the submissions of learned counsel for the petitioner and perused the documents placed on record. There is no dispute that petitioner knowing it well the acquisition proceedings did not challenge the acquisition proceedings of the year 2003 till 2005 and is now

challenging the acquisition of the land now in the year 2005 that too, after accepting the cheque no.137336 dated 6th Sept., 2003 for compensation. The writ petition of the petitioner further deserves to be dismissed on the ground that learned counsel for the petitioner on asking by the court after pointing out that petitioner in the writ petition stated that the cheque was though alleged to have been sent, but in fact, was not sent to the petitioner, still submitted that in fact cheque was sent to the petitioner and it was returned to the authorities by the petitioner after the expiry of the period within which the cheque could have been encahsed. In such situation, the writ petition is liable to be dismissed because of the false statement of fact in the writ petition.

The fact of the case of State of UP & Ors. Vs. Manohar (supra) has no relevance to the present controversy inasmuch as, here in this case, not only acquisition proceedings were not challenged by the petitioner but and now in fact, the petitioner is claiming enhancement of the compensation amount for which he could have submitted appropriate application under Section 18 of the Land Acquisition Act and it is not a case where the compensation was denied by the authorities, but it was the case that compensation was not accepted by the petitioner by his own free will. It is also not a case of non-determination of compensation or non-payment of the compensation by the State authorities. Therefore, the judgment relied upon by learned counsel

for the petitioner has no application to the facts of this case.

However, it is made clear that in case any amount of the petitioner is lying with the authorities as determined and awarded, the same is required to be paid to the petitioner by the competent authority as permissible under law, but neither the acquisition proceedings can be quashed nor compensation can be enhanced by this court while exercising jurisdiction under Article 227 of the Constitution of India .

In view of the above, the writ petition of the petitioner is dismissed as having no merit.

(PRAKASH TATIA), J.

c.p.goyal/-